



FREDERICK COUNTY PLANNING COMMISSION
November 12, 2014

TITLE: **Enclave at Clover Hill**

FILE NUMBER: **S1173 (AP 14619, APFO 14621, FRO 14622)**

REQUEST: **Preliminary Subdivision Plan**
The Applicant is requesting Preliminary Subdivision Plan approval for a total of 11 single family residential lots on a 10 acre property.

PROJECT INFORMATION:

ADDRESS or LOCATION: Northwest side of Runnymede Drive, south of Poole Jones Road
TAX MAP/PARCEL: Tax Map 57, Parcel 20
COMP. PLAN: Low Density Residential (LDR)
ZONING: R-3 Residential
PLANNING REGION: Frederick
WATER/SEWER: W-5, S-1

APPLICANT/REPRESENTATIVES:

APPLICANT: Better World Builders, LLC
OWNER: Nicola M. Tauraso, LLC
ENGINEER: Daft McCune Walker, Inc.

STAFF: John Dimitriou, R.A., Principal Planner

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1 – Preliminary Plan Rendering
EXHIBIT 2 – APFO LOU

STAFF REPORT

ISSUE

Development Request

The Applicant is requesting Preliminary Subdivision Plan approval for 11 single family residential lots to be served by public sewer and private well on individual lots.

The Project is subject to the requirements of the Frederick County Code, specifically Chapter 1-16 Subdivision Rules and Regulations for the Preliminary Subdivision Plan review.

BACKGROUND

Development History

The Site was originally zoned R-1 in 1959. The zoning remained R-1 until 1977 when it was rezoned R-3. It has remained R-3 until the present day.

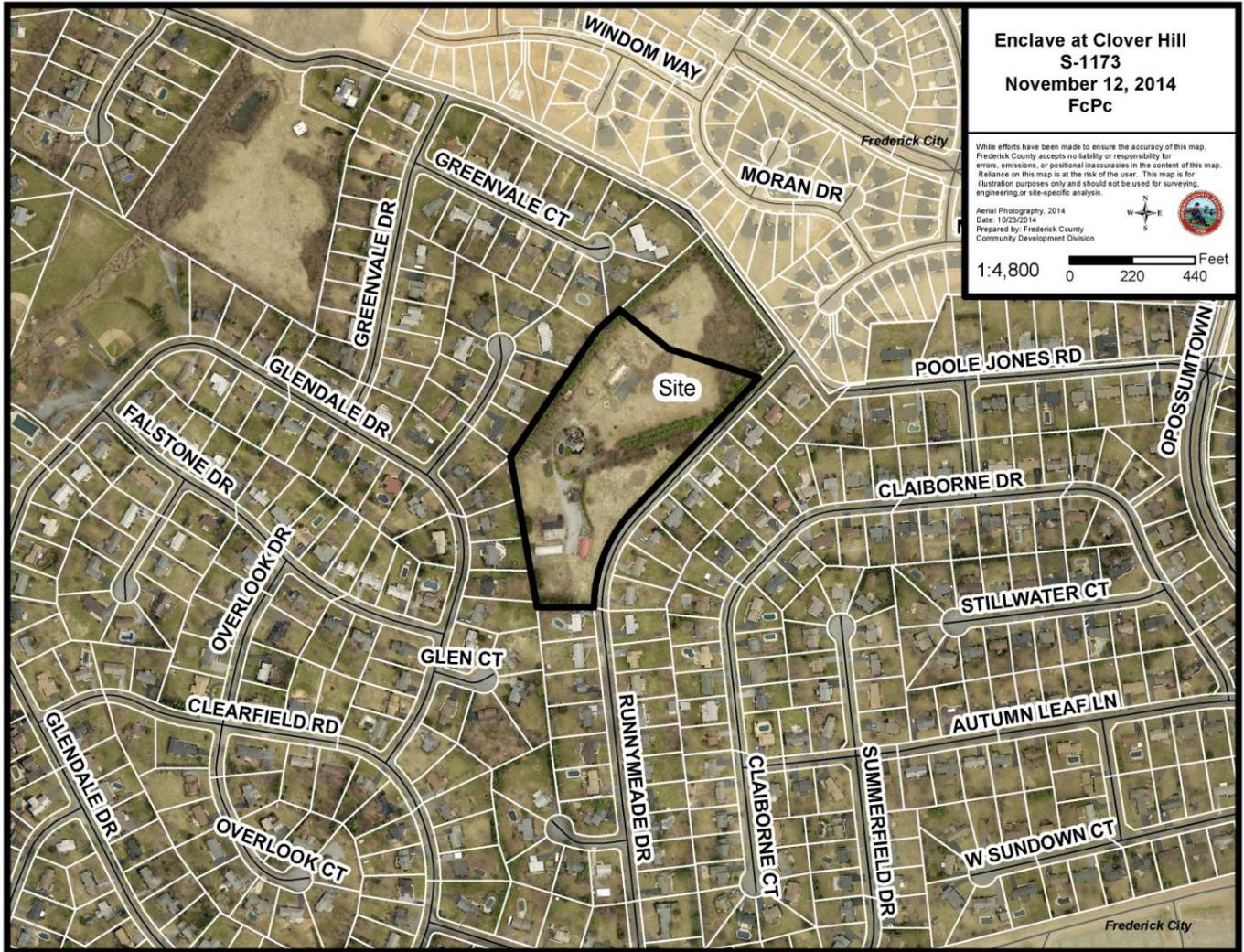
The tract associated with this location was created in 1774 when a 260 acre portion of a larger tract referred to as Taskers Chance was conveyed. The property remained relatively unchanged until 1964 when the development of Clover Hill and other land subdivisions ultimately resulted in the current configuration of the property. In 1911, the property was purchased by Thomas Poole Jones, whose name was given to the road which passes by the farm. The property was then purchased by the Tarausos in 1972.

A two-story farmhouse located on the Site was listed in the National Register of Historic Places in 1979 and is known as Edgewood. Portions of the house construction can be traced to the 18th and 19th centuries. The Site also contains a currently disused and unmaintained garden complex, three accessory barn buildings, and formerly housed a medical clinic use. The historic house was destroyed by fire in 2010.

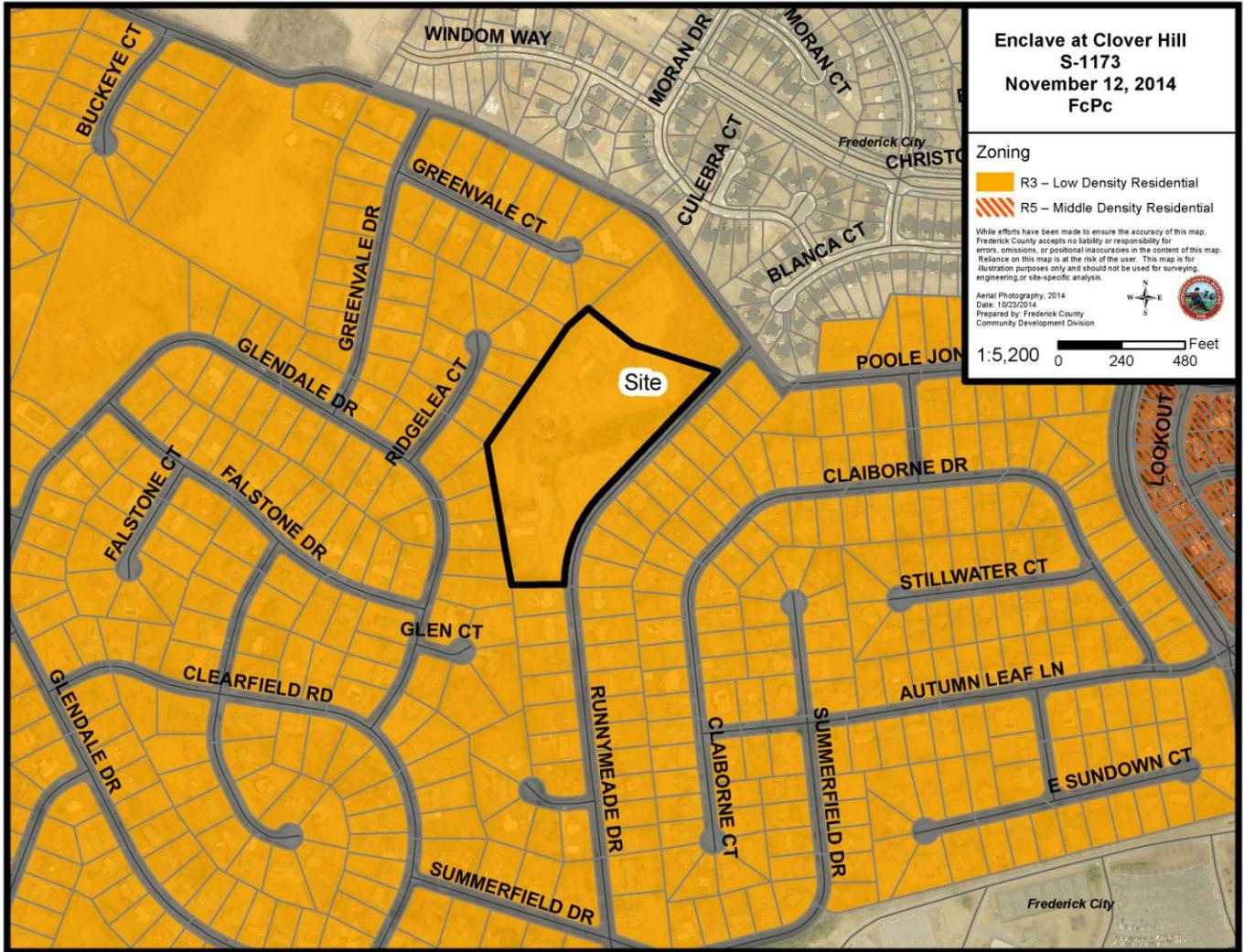
The farmhouse has not been officially delisted, but the Maryland Historical Trust (MHT) is in agreement that the property should be delisted and the delisting process is currently underway. A letter was sent to the landowner from MHT as part of their notification process for delisting.

Existing Site Characteristics

The Site has a number of existing outbuildings and the remnants of the residence which was destroyed by a fire. It is bordered on the east, south, and west by the Clover Hill subdivision. To the north of the Site is the Clover Ridge subdivision in the City of Frederick, currently under construction. The topography of the Site is high and steady along a swath of land in a north south orientation in the western area of the parcel. In the central portion, a north south swath of land steeply slopes and then flattens out to the eastern boundary. There are no FEMA floodplain, wet soils, wetlands, or water bodies identified on the Site.



Aerial



Zoning

ANALYSIS

Preliminary Subdivision Plan approval is granted based upon the requirements found in Chapter 1-16 of the Frederick County Code.

SITE DEVELOPMENT

- **Land Requirements §1-16-217(A) & (B)**

The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The designated land use in the County Comprehensive Plan for the Site is Low Density Residential, which is intended to be applied only within Community Growth Areas and represents the least dense residential land use pattern in the growth areas at a density range of 3 – 6 dwellings/acre with public water and sewer service.

The Site is within the Frederick Community Growth Area and has a gross density of (11 dwellings/10 acres) 1.1 dwellings/acre. The Site is served by public sewer, but not public water. Rather, individual wells will service each proposed lot.

The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

The Project takes advantage of the uniqueness of the Site by integrating two existing barns as future accessory structures for the proposed lots, and through the proposed conversion of one barn into a single family residence.

- **Block Shape §1-16-218**

The maximum block dimension shall be 1,800 feet.

No public or private streets are proposed because all lots will have direct access to public streets, therefore no block dimension is greater than 1,000 feet.

- **Lot Size and Shape §1-16-219**

The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.

The minimum lot size in the R-3 district is 12,000 square feet. The proposed lots range in size from 18,222 sq. ft. to 1.3 acres.

The required setbacks for residential lots in the R-3 zone are as follows:

Front: 30' Side: 10' Rear: 30'

Private restrictive covenants of the Home Owners Association require the following setbacks:

Front: 40' Side: 10' Rear: 30'

The proposed design complies with all required setbacks.

Five taper lots are proposed. A taper lot is a lot in which the side lot lines emanating from the street do not break in direction before the minimum lot width is achieved. For all proposed taper

lots (Lot #'s 2, 4, 6, 7, 10), the side lot lines emanating from the street do not break until a lot width of 90' is achieved. The required minimum width of single family residential lots in the R-3 zone is 80', therefore the lots are classified as taper lots and do not need specific approval as panhandle lots.

TRANSPORTATION AND PARKING

- **Street, Common Driveway and Sidewalk Construction §1-16-109**

The project shall provide for the complete construction of street improvements, including drainage facilities as provided in §1-16-234 through §1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.

There are no new proposed public or private streets in the subdivision. No common driveways are proposed. The existing, surrounding subdivision does not contain sidewalks. Entrance spacing for the proposed driveways is slightly less than the existing facing lots on Runnymede Drive.

- **Right of Way and Paved Surface Widths §1-16-235**

Whenever a proposed subdivision includes or abuts streets designated on the Highway Plan section of the Comprehensive Plan, the Planning Commission shall require, by dedication to public use, adequate right-of-way for the coordination of roads within the subdivision with other existing, planned or platted roads.

The proposed subdivision does not abut any planned streets that are designated on the Highway Plan. The existing Runnymede Drive has a 50 foot right-of-way and a 20 foot paved, open section roadway.

PUBLIC FACILITIES AND UTILITIES

- **Public Facilities - Road Adequacy §1-16-12;**

The proposed subdivision will access Runnymede Drive, which is a Local road that connects to Poole Jones Road which is designated as a Collector road.

- **Parks §1-16-111**

This subdivision contains less than 59 lots and therefore is not required to provide land for neighborhood parks.

NATURAL FEATURES

- **Floodplain Developments §1-16-220**

There is no the mapped FEMA 100-year floodplain on the Site.

Other Applicable Regulations

- **Moderately Priced Dwelling Units – Chapter 1-6A:**

Per Section 1-19-8.620.2, the development is not required to provide MPDUs because it proposes less than 25 units.

- **Stormwater Management – Chapter 1-15.2:**

A stormwater management concept plan was conditionally approved on August 25, 2014. Stormwater Development and Improvement Plans must be approved prior to final Preliminary Subdivision Plan approval.

- **APFO – Chapter 1-20 (see the attached LOU):**

Schools

The Project is served by Yellow Springs Elementary School, Monocacy Middle School, and Gov. Thomas Johnson High School. The Project is projected to generate 3 elementary school students, 2 middle school students and 2 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary school level.

The Applicant has chosen to mitigate school inadequacy by paying School Construction Fees as allowed under §1-20-62 of the County APFO. The School Construction Fees shall be paid, per unit type and school levels to be mitigated, at plat recordation based on the specific fees required by §1-20-62(E) at the time of plat recordation.

Water/Sewer

The Property has water and sewer classification of W-5 and S-1. This project is going to be served by public sewer and private well. The public sewer facilities are currently adequate to serve the project.

Roads

The Project will generate 8 am and 11 pm weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

In full satisfaction of APFO requirements to mitigate site-generated trips, the Developer shall pay into a City escrow account: Christopher's Crossing from Walter Martz Road to west of Opossumtown Pike. The estimated cost of this Improvement is \$4,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.38%. Therefore, the Developer hereby agrees to pay \$55,200 to the new escrow account for this Road Improvement, prior to plat recordation. Should this payment not be made within one year of the execution of the Letter of Understanding, the County reserves the right to adjust this amount, based on an engineering cost index.

- **Forest Resource – Chapter 1-21:**

This development is subject to FRO. A Combined Preliminary/Final FRO plan has been submitted and is currently under review. The Site contains no forest. The Applicant is providing FRO mitigation with the use of miscellaneous credits (0.10 acres) for retaining the tree save area along the northern property line and by purchasing banking credits (1.40 acres). The Site contains 9 specimen tree (trees 30" or greater in diameter). Per 1-21-40 (B) of the FRO, nonhazardous specimen trees must be retained unless a modification is granted by the FcPc . One specimen tree, a 34" Silver Maple, is proposed to be removed. This maple has significant crown damage

and is considered a hazardous tree, and therefore may be removed without an FcPc modification. All other specimen trees will be retained and protected. The FRO plan must be approved prior to Preliminary Plan approval, and the required FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

- **Historic Preservation – Chapter §1-23:**

A two-story farmhouse known as Edgewood is located on the Site and was listed in the National Register of Historic Places in 1979. Portions of the house construction can be traced to the 18th and 19th centuries. The Site also contains a currently disused and unmaintained garden complex, three accessory barn buildings, and formerly housed a medical clinic use. The historic house was destroyed by fire in 2010.

The farmhouse has not been officially delisted, but MHT is in agreement that the property should be delisted and the delisting process is currently underway. A letter was sent to the landowner from MHT as part of their notification process for delisting.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering	Approved
Development Review Planning	Hold
State Highway Administration	Approved
Division of Utilities and Solid Waste Management	Approved
Health Department	Conditionally Approved
Office of Life Safety	Approved
Development Review Transportation Engineering	Approved
Historic Preservation	Waived
Forest Resource	Hold

RECOMMENDATION

Staff has no objection to conditional approval of the Preliminary Subdivision Plan, if the Planning Commission conditionally approves the Preliminary Plan, it will be valid for the lesser of five (5) years from the date of Planning Commission approval or the period of adequate public facilities ordinance approval of the preliminary plan. Therefore, since the APFO approval is valid for three (3) years, the Preliminary Subdivision plan is valid until November 12, 2017.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following modifications are approved and conditions are met:

1. The Applicant shall address all agency comments.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** the Enclave at Clover Hill Preliminary Subdivision Plan (AP#14619, S-1173), with conditions as listed in the staff report including APFO approval, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



FREDERICK COUNTY GOVERNMENT DIVISION OF COMMUNITY DEVELOPMENT

Gary W. Hessong, Acting Division Director

Department of Planning & Development Review

Jim Gugel, Director

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Lori L. Depies, CPA
County Manager

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Enclave at Clover Hill

Preliminary Plat #S-1173 AP #14621

In General: The following Letter of Understanding (“**Letter**”) between the Frederick County Planning Commission (“**Commission**”) and Better World Builders, LLC (“**Developer**”), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Enclave at Clover Hill Preliminary Plan of Subdivision (the “**Project**”), in compliance with the Frederick County Adequate Public Facilities Ordinance (“**APFO**”).

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer’s 9.995 +/- acre parcel of land, which is zoned Medium Density Residential (R-3), and located on the west side of Runnymede Drive, just south of Poole Jones Road. This APFO approval will be effective for development of 11 new single family detached homes, which are shown on the subdivision plat for the above-referenced Project, which was conditionally approved by the Commission on November 12, 2014.

Schools: The Project is projected to generate 3 elementary school students, 2 middle school students and 2 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary school level for Yellow Springs ES. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid prior to plat recordation** based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

Water and Sewer: The Property has water and sewer classification of W-5 and S-1. This project is going to be served by public sewer and private well. While the public sewer facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer does not guarantee that plats will be recorded or that building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: The Project will generate 8 am and 11 pm weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

In full satisfaction of APFO requirements to mitigate site-generated trips, the Developer shall pay into a new City escrow account: Christopher's Crossing from Walter Martz Road to west of Opossumtown Pike. The estimated cost of this Improvement is \$4,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.38%. Therefore, the Developer hereby agrees to pay \$55,200 to the new escrow account for this Road Improvement.

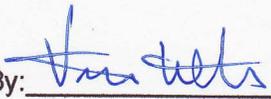
Therefore, prior to plat recordation, the Developer hereby agrees to pay \$55,200 to the escrow account for this Road Improvement. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval. Therefore, the APFO approval expires on November 12, 2017.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on Page 3]

DEVELOPER: Better World Builders, LLC

By: 

Date: 11/3/2014

Name: Victor White

FREDERICK COUNTY PLANNING COMMISSION:

By: _____
Dwayne E. Robbins, Chair or Anthony Bruscia, Secretary

Date: _____

ATTEST:

By: _____
Gary Hessong, Director, Permits & Inspections

Date: _____

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____
(Approved as to legal form)